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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/608,323 | 06/27/2003 | Patrick A. Hampton | CE11172JI019 | 7995 |

7590 02/17/2006

Larry G. Brown
Motorola, Inc.
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8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

| EXAMINER |
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NGUYEN, QUYNH H

| ART UNIT | PAPER NUMBER |
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2642

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,323

Applicant(s)

HAMPTON ET AL.

Examiner

Quynh H. Nguyen

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Applicant's amendment filed 11/30/05 has been entered. No claims have been amended. No claims have been cancelled. No claims have been added. Claims 1-14 are still pending in this application, with claims 1 and 14 being independent.

Claim Rejections - 35 USC § 102

3. Claims 1-4, 7-12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Plummer (U.S. Patent 4,799,264).

Regarding claim 1, Plummer shows an acoustic seal system comprising:

a flexible sealing element having a ridge (29) for engaging a cover (31);

a plate (22);

a mesh (27);

the plate (22) and the flexible sealing element (29) are secured to a portion of an inner housing (with 12);

wherein when the cover (31) engages the inner housing (with 12), the flexible sealing element (29) provides an acoustic seal between the cover (31) and the inner housing (with 12).

Regarding claim 14, Plummer shows an acoustic seal system comprising:

a flexible sealing element (29);

a plate (22);

a mesh (27);

the plate (22) and the flexible sealing element (29) are secured to an inner housing (with 12);

wherein when the inner housing (with 12) engages the cover (31), the flexible sealing element (29) is also secured to the cover (31) thereby creating an acoustic seal between the inner housing (with 12) and the cover (31).

Regarding claims 2-4, 7-12, Plummer shows:

the plate (22) includes at least one acoustic port (see 23);

the sealing elements (29) includes an opening (see 23) which exposed at least a portion of the plate (31) and shaped to follow an outline of the pod of the plate (23, 22);

top surface or ridge of the seal element (29, contacting 31);

the seal element (29) is one of rubber and plastic (col. 3, lines 58-60);

the plate (22) is rigid which is generic for metal (col. 3, line 47);

the inner housing (with 12) includes first cavity surface and first cavity wall (see 12);

the seal element (29) includes edge for engaging with the cavity wall (see 12)

when the plate (22) is secured to the first cavity surface (see 12, 22, 29);

a speaker and a second cavity (13 and cavity of 11).

Claim Rejections - 35 USC § 103

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plummer in view of Clark et al. (US 6321070).

Regarding claims 5-6, Plummer shows the mounting of the plate (22) and the mesh (27).

Plummer differs from the claimed invention in that the mounting is not an adhesive.

However, the mounting of the plate and mesh is well taught by Plummer. Further, Clark teaches providing an adhesive for mounting a speaker plate or gasket (col. 6, lines 32-33).

Hence, it would have been obvious for one of ordinary skill in the art to incorporate an adhesive when mounting Plummer's plate or mesh as taught by Clark. This simply can be considered as a variation of Plummer as long as the basic concept of mounting the plate and the mesh is substantially unchanged.

5. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plummer.

Regarding claim 13, Plummer shows the seal element (29) mounted with the plate (22).

Plummer differs from the claimed invention in that they are not molded together.

However, the court has ruled that to make prior art pads integral or separable does not constitute patentable weight (*In re Larson* 144 USPQ 344, CCPA 1965., *Nerwin v. Erlichman* 168 USPQ 177).

Hence, the concept of having the seal element and the plate as an unit is well taught by Plummer, therefore, it would have been obvious to make Plummer elements as an integral unit or a separate unit. This simply can be considered as a variation of each other because whether they are separable or integral, it would not change the basic concept of their operation or intended functions.

Response to Arguments

6. Applicant's arguments filed 11/30/05 have been fully considered but they are not persuasive.

Applicant agrees that "Plummer provides an acoustic seal between the circular opening 12 and the dispersion grid 31 when the dispersion grid 31 is mounted to the housing 11" (remarks, page 6). Applicant then argues that there is no acoustic seal between the acoustic filter 21 and the dispersion grid 31. Examiner respectfully disagrees. Plummer teaches membranes 27 and 28 and damping ring 29 creating sealing (col. 3, lines 57-63). Furthermore, if there is sealing between the circular opening 12 and the dispersion grid 31, then there should exist sealing between acoustic filter 21 and dispersion grid 31. Finally, if there is no acoustic sealing, then there would be no need for having membranes 27, 28, and damping ring 29 because these components would have no function at all.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:15 A.M. to 4:45 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2642

published applications may be obtained from either Private PAIR or Public PAIR.

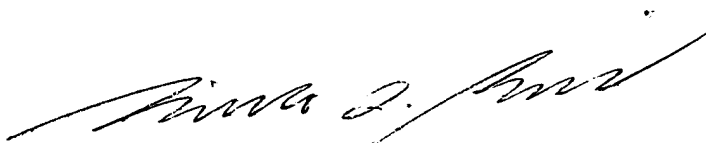
Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Quynh H. Nguyen
Patent Examiner
Art Unit 2642

A handwritten signature in black ink, appearing to read "Bing Q. Bui", written in a cursive style.

BING Q. BUI
PRIMARY EXAMINER